

Department of the Interior

1452.280-4

and (d) of this clause may cause Indian Affairs to find an offer non-responsive and to reject it.

(f) Eligibility.

(1) Participation in the Mentor-Protégé Program established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (25 U.S.C. 47 note) does not render an Indian economic enterprise ineligible for contracts awarded under the Buy Indian Act.

(2) If a contractor no longer meets the definition of an Indian economic enterprise after award, the contractor must notify the CO in writing. The notification must include full disclosure of circumstances causing the contractor to lose eligibility status and a description of any actions that the contractor will take to regain eligibility. Failure to give the CO immediate written notification means that: (i) The economic enterprise may be declared ineligible for future contract awards under this part; and (ii) Indian Affairs may consider termination for default if it is in the best interest of the government.

(End of clause)

1452.280-3 Subcontracting limitations.

A contractor shall not subcontract to other than responsible Indian economic enterprises more than 50 percent of the subcontracted work when the prime contract was awarded under the Buy Indian Act. For this purpose, work to be performed does not include the provision of materials, supplies, or equipment. As prescribed in 1480.601(b), insert the following clause in each written solicitation or contract to provide supplies, services, or covered construction:

SUBCONTRACTING LIMITATIONS (JUL 2013)

(a) Definitions as used in this clause.

(1) *Concern* means any business entity organized for profit (even if its ownership is in the hands of a nonprofit entity) with a place of business located in the United States or its outlying areas and that makes a significant contribution to the U.S. economy through payment of taxes and/or use of American products, material and/or labor, etc. It includes but is not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of making affiliation findings (see 19.101) any business entity, whether organized for profit or not, and any foreign busi-

ness entity, *i.e.*, any entity located outside the United States and its outlying areas.

(2) *Subcontract* means any agreement (other than one involving an employer-employee relationship) entered into by a Government prime contractor or subcontractor calling for supplies and/or services required for performance of the contract, contract modification, or subcontract.

(3) *Subcontractor* means a concern to which a contractor subcontracts any work under the contract. It includes subcontractors at any tier who perform work on the contract.

(b) Required Percentages of work by the concern. The contractor must comply with FAR 52.219-14 Limitations on Subcontracting clause in allocating what percentage of work to subcontract. Of the work subcontracted, no more than 50 percent may be subcontracted to a concern other than a responsible Indian economic enterprise.

(c) Indian Preference. Regardless of the contract type for services, supplies, or covered construction, the contractor agrees to give preference to Indian organizations and Indian owned economic enterprises in awarding subcontracts under this contract in accordance with DIAR 1452.226-71, Indian Preference.

(d) Cooperation. The contractor must:

(1) Carry out the requirements of this clause to the fullest extent; and

(2) Cooperate in any study or survey that the CO, Indian Affairs, or its agents may conduct to verify the contractor's compliance with this clause.

(e) Incorporation in Subcontracts. The contractor must incorporate the substance of this clause, including this paragraph (e), in all subcontracts for supplies, services, and construction awarded under this contract.

(End of clause)

1452.280-4 Indian economic enterprise representation.

As prescribed in 1480.801(a), insert the following provision in each written solicitation for supplies, services, or covered construction:

INDIAN ECONOMIC ENTERPRISE REPRESENTATION (JUL 2013)

The offeror represents as part of its offer that it [] does [] does not meet the definition of Indian economic enterprise as defined in 1480.201.

[End of provision]